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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/074,990	02/13/2002	Michael James Scott	5173-06	6875
7590	08/17/2004			
McCormick, Paulding & Huber City Place II 185 Asylum Street Hartford, CT 06103-3402			EXAMINER	ALEXANDER, REGINALD
			ART UNIT	PAPER NUMBER
			1761	

DATE MAILED: 08/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

S.C.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/074,990	SCOTT ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Reginald L. Alexander	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 08 July 2004.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-38 and 41-43 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3,5,8-11,22-25 and 41-43 is/are rejected.
- 7) Claim(s) 4,6,7,12-21 and 26-38 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 01 June 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, 8, 10, 24, 41 and 43 is rejected under 35 U.S.C. 102(a) as being anticipated by Jepson.

There is disclosed in Jepson an electric beverage maker comprising: a lower liquid heating vessel 6; a funnel 8 extending into the lower vessel and having an upper compartment for receiving a beverage; an upper vessel 7 mounted over the funnel to receive water which has passed up the funnel through the compartment; an electric heating base arrangement 15, including a steel plate 15 and resistance element 22 about the periphery of the plate, the base arrangement being mounted within an opening (formed by a flange 17) in the lower vessel for heating liquid in the vessel, wherein a portion of the heater directly below the funnel is unheated; and a thermally sensitive control 24 operable to disconnect the power supply.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2, 3 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jepson in view of WO 00/30514 (Taylor et al).

Jepson discloses all of the claimed subject matter except a plastic lower vessel. Taylor discloses that it is known in the art to construct a lower vessel 4 of plastic (see page 6, lines 1-4). It would have been obvious to one skilled in the art to modify the lower vessel of Jepson with that taught by Taylor, in order to reduce the cost of constructing the beverage making device.

Claims 9, 11, 22 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jepson in view of Taylor '520.

Jepson, as discussed above, discloses all of the claimed subject matter except means for manually resetting the thermally sensitive control.

Taylor discloses a water boiling vessel and heating arrangement therefor, the heater having a thermally sensitive control 2 and a manual reset mechanism 28. It would have been obvious to one skilled in the art to substitute the thermally sensitive control assembly of Jepson with that taught by Taylor, in order to control manually the operation of the heater. Thus, preventing any chance of the heater turning on and damaging the vessel.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jepson in view of Chang.

Chang discloses that it is known in the art to provide an indicator light which illuminates during heating of a liquid. It would have been obvious to one skilled in the art

to provide the device of Jepson with the indicator light taught by Chang, in order to give the user a visual indication that the heating device is in use.

***Allowable Subject Matter***

Claims 4, 6, 7, 12-21 and 26-38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments filed July 8, 2004 have been fully considered but they are not persuasive. Applicant argues that the heating element 22 is mounted outside of a bottom wall 15 of the vessel. In the Examiners opinion the heating element of Jepson is formed by the plate 15 which transfers heat to the liquid from a heating element 22 which is mounted about the periphery of the plate. The two elements together are considered to make up the heating element. It is known in the art that a heating element must have a conductive plate or surface of some sorts to transfer heat to a liquid.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

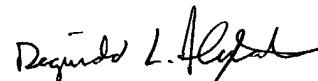
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reginald L. Alexander whose telephone number is 571-272-1395. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Reginald L. Alexander  
Primary Examiner  
Art Unit 1761

rla  
August 16, 2004